

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

BOGART, LLC, A DELAWARE LIMITED
LIABILITY COMPANY,

Plaintiff,

v.

ASHLEY FURNITURE INDUSTRIES,
INC. (D/B/A ASHLEY FURNITURE),
ASHLEY FURNITURE HOMESTORE,
AND DOES 1 THROUGH 10, INCLUSIVE,

Defendants.

CASE NO. 3:10-CV-39 (CDL)

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Defendants, through counsel, pursuant to Federal Rule of Civil Procedure 56, respectfully move for summary judgment. This motion is based upon the supporting Memorandum of Law ("Memorandum") filed concurrently herewith, the Separate Statement of Undisputed Facts attached as Exhibit C to the Memorandum, and the other Exhibits to the Memorandum. As set forth more fully in the Memorandum, Defendants move for judgment as to all claims for relief asserted in Plaintiff's Complaint on grounds that there are no triable issues of material fact on these claims and Ashley is entitled to judgment on those claims as a matter of law. Alternatively, if the Court permits Plaintiff to pursue one or more of the claims for relief in the complaint, as set forth more fully in the Memorandum, then Defendants seek summary judgment which (i) excludes all of Plaintiff's claim for monetary damages, (ii) excludes all of Plaintiff's claims for punitive, enhanced, and/or exceptional damages, and (iii) limits Plaintiff's right of publicity claims to only those sales (if any) which Plaintiff can prove took place in the state of California.

Dated this 1st day of March, 2012.

/s/ Matthew L. Jamison

Charles A. Burke (Admitted *pro hac vice*)

Robert D. Mason, Jr. (Admitted *pro hac vice*)

Matthew L. Jamison (Ga. Bar No. 142525)

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Furniture HomeStore*

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|--|---|---------------------------|
| BOGART, LLC, A DELAWARE LIMITED LIABILITY COMPANY, |) | |
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| |) | |
| Plaintiff, |) | |
| v. |) | CASE NO. 3:10-CV-39 (CDL) |
| |) | |
| ASHLEY FURNITURE INDUSTRIES, |) | |
| INC. (D/B/A ASHLEY FURNITURE), |) | |
| ASHLEY FURNITURE HOMESTORE, |) | |
| AND DOES 1 THROUGH 10, INCLUSIVE, |) | |
| |) | |
| Defendants. |) | |
| |) | |
| |) | |

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DEFENDANTS' MOTION FOR SUMMARY JUDGMENT was served on this 1st day of March, 2012 by electronic mail and by placing said copy in a postpaid envelope and addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and its contents in the United States Mail:

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